

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Martha Gannett Zwicker,

Lawyer (Bar No. 18038).

Supreme Court No. 200729-S

ASSOCIATION'S PETITION
FOR INTERIM SUSPENSION
[ELC 7.2(a)(3)]

Under Rule 7.2(a)(3) of the Rules for Enforcement of Lawyer Conduct (ELC), the Washington State Bar Association (Association) petitions this Court for an Order of Interim Suspension of Respondent Martha Gannett Zwicker pending cooperation with the disciplinary investigation.

This Petition is based on the Declaration of Disciplinary Counsel Leslie Ching Allen, filed with this Petition.

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2009 SEP 11 AM 8:00
BY RONALD R. CARPENTER
CLEAN

STATEMENT OF GROUNDS/ARGUMENT

Respondent Martha Gannett Zwicker failed to respond to the Association's requests that she respond to a grievance filed against her, and failed to appear at a non-cooperation deposition to which she was subpoenaed.

Respondent failed to produce her files and records pertaining to her representation of grievant Betty McGlaughlin, which she was required to produce in response to a subpoena for deposition and production of documents issued by Disciplinary Counsel under ELC 5.3(f)(1). The subpoena was issued due to Respondent's failure to respond to two previous requests to respond to the grievance of Ms. McGlaughlin.

It is necessary to obtain Respondent's response to Ms. McGlaughlin's grievance so the Association can determine whether unethical conduct has occurred. By refusing to respond to Ms. McGlaughlin's grievance and by failing to appear for a deposition with the subpoenaed documents, Respondent has impeded and delayed the disciplinary process. Accordingly, the Association asks this Court to order Martha Gannett Zwicker's immediate interim suspension pending compliance with the Association's investigation.

STANDARD

Under ELC 7.2(a)(3), a respondent lawyer may be immediately suspended from the practice of law when a lawyer fails without good cause to comply with a request from the Association for information or documents or fails without good cause to comply with a subpoena.¹ Ms. Zwicker's failure to comply with the Association's requests for a response to the McGlaughlin grievance and her failure to appear for a deposition with the subpoenaed documents meets this standard.

EFFECT OF RESPONDENT'S FAILURE TO COOPERATE

The lawyer discipline system provides "protection of the public and preservation of confidence in the legal system." In re Disciplinary Proceeding Against McMurray, 99 Wn.2d 920, 930, 655 P.2d 1352 (1983). Given the limited resources available to investigate allegations of lawyer misconduct, "such investigations depend upon the cooperation of attorneys." Id. at 931.

¹ ELC 7.2(a)(3) provides:

Failure to Cooperate with Investigation. When any lawyer fails without good cause to comply with a request under rule 5.3(f) for information or documents, or with a subpoena issued under rule 5.3(f), or fails to comply with disability proceedings as specified in rule 8.2(d), disciplinary counsel may petition the Court for an order suspending the lawyer pending compliance with the request or subpoena. If the lawyer complies with the request or subpoena, the lawyer may petition the Court to terminate the suspension on terms the Court deems appropriate.

"Compliance with these rules is vital." In re Disciplinary Proceeding Against Clark, 99 Wn.2d 702, 707, 663 P.2d 1339 (1983). Because Respondent has not responded to the grievance or appeared for a deposition, the Association has not been able to determine the merits of Ms. McGlaughlin's grievance. The Association's effective and timely investigation of the grievance and protection of the public has been impeded and delayed.


CONCLUSION

Respondent's failure to cooperate with a disciplinary investigation is an ongoing violation of ELC 5.3. Accordingly, the Association asks the Court to issue an order to show cause under ELC 7.2(b)(2) requiring Martha Gannett Zwicker to appear before the Court on such date as the Chief Justice may set, and show cause why this petition for interim suspension should not be granted.

DATED THIS 10th day of September, 2009.

Respectfully submitted,

WASHINGTON STATE BAR ASSOCIATION



Leslie Ching Allen, Bar No. 13069
Disciplinary Counsel
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 733-5906

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Martha Gannett Zwicker,
Lawyer (Bar No. 18038).

Supreme Court No. 200729-S

DISCIPLINARY COUNSEL
DECLARATION

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2009 SEP 11 AM 8:00
BY RONALD P. CARPENTER
CLERK

I, Leslie Ching Allen, declare and state:

1. I am the disciplinary counsel assigned to the disciplinary proceedings against respondent lawyer, Martha Gannett Zwicker. This statement is submitted in support of the Association's Petition for Interim Suspension [ELC 7.2(a)(3)].

2. On May 1, 2009, Betty McGlaughlin filed a grievance against her lawyer, Martha. Zwicker, alleging that she failed to follow through with enforcing ordered spousal maintenance and medical insurance related to a November 20, 2008 decree of legal separation, and failed to return her telephone calls.

3. On May 5, 2009, Ms. Zwicker was requested to respond to Ms. McGlaughlin's grievance. A copy of Ms. McGlaughlin's grievance and the request to respond is attached as Exhibit A.

4. When Ms. Zwicker failed to respond, a follow up letter was mailed to her on June 9, 2009, again requesting a response. A copy of the follow up letter and return receipt is attached as Exhibit B.

5. When no response was received, a subpoena for deposition and production of documents was served on Ms. Zwicker on July 1, 2009, requiring her to appear for deposition at the Association's offices on July 29, 2009 at 1:00 p.m. A copy of that subpoena and the accompanying affidavit of service are attached as Exhibit C.

6. Shortly before the deposition I received an email from Ms. Zwicker indicating that she was not able to appear for deposition and requesting a 30 day continuance. I informed Ms. Zwicker that the email came too late to continue the deposition as I did not receive the email until 12:55 p.m. and the court reporter was already in the room. A copy of Ms. Zwicker's email and my response is attached as Exhibit D. A copy of the deposition transcript is attached as Exhibit E.

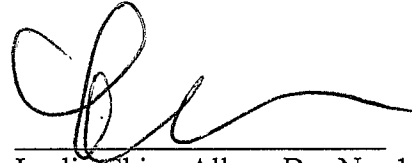
7. As of today, Ms. Zwicker still has not responded to Ms. McGlaughlin's grievance.

8. By refusing to respond to the Ms. Glaughlin's grievance, Ms. Zwicker is frustrating the regulatory efforts of the Association to protect the public. Until Ms. Zwicker provides full cooperation in the pending investigation, she should be suspended from the practice of law under ELC 7.2(a)(3)¹.

¹ Ms. Zwicker was suspended effective June 1, 2009 for failure to pay her licensing fees and failure to file her insurance disclosure form pursuant to APR 26.

I certify under penalty of perjury under the laws of the
State of Washington that the foregoing is true and correct.

9/10/09 Seattle, WA
Date & Place



Leslie Ching Allen, Bar No. 13069
Disciplinary Counsel

EXHIBIT A



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Acknowledgment That We Have Received a Grievance

Date: 5/5/2009

WSBA File: 09-00711

To the Grievant:

We received your grievance against a lawyer and opened a file with the file number indicated above. We are requesting a written response from the lawyer. You generally have a right to receive a copy of any response submitted by the lawyer. After we review the lawyer's response, if it appears that the conduct you describe is not within our jurisdiction, does not violate the Supreme Court's Rules of Professional Conduct (RPC), or does not warrant further investigation, we will write you a letter to tell you that. If we begin an investigation of your grievance, we will give you our investigator's name and telephone number. If, as a result of an investigation and formal proceeding, the lawyer is found to have violated the RPC, either the Washington State Bar Association Disciplinary Board or the Supreme Court may sanction the lawyer.

Our authority and resources are limited. We are not a substitute for protecting your legal rights. We do not and cannot represent you in legal proceedings. You should consider contacting another lawyer to represent you in any ongoing civil or criminal case or to determine whether other remedies may be available to you. If you believe criminal laws have been broken, you should contact your local police department or prosecuting attorney. There are time deadlines for both civil and criminal proceedings, so you should not wait to take other action.

Please read the enclosed form for additional information about the grievance process. Our office handles a large number of files. We urge you to communicate with us only in writing until we complete our initial review of your grievance. You should hear from us again within four weeks.

Request for Lawyer Response

To the Lawyer:

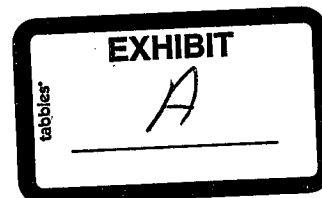
Although we have reached no conclusions on the merits of the grievance that has been filed against you, we are requesting your preliminary written response postmarked or delivered to us within **two (2) weeks** of the date of this letter. Please provide any information you believe is relevant. You must personally assure that all records, files, and accounts related to the grievance are retained until you receive written authorization from us, or until this matter is concluded and all possible appeal periods have expired.

Absent special circumstances, and unless you provide us with reasons to do otherwise, we will forward a copy of your response to the grievant. If the grievant is not your client, or you are providing personal information, please clearly identify any information that you believe we should withhold and we will forward a copy of your redacted response to the grievant, informing the grievant that he or she is receiving a redacted copy. Decisions to withhold information may be considered by a review committee of the Disciplinary Board. The grievance process is governed by the Rules for Enforcement of Lawyer Conduct (ELC). ELC 5.3(e), a copy of which is enclosed with related rules, sets out the obligations of a respondent lawyer, including the duty to promptly file a written response. If you believe further action should be deferred because of pending litigation, please so indicate and explain the basis for your request under ELC 5.3(c)

Sincerely,

Felice P. Congalton
Senior Disciplinary Counsel

Enclosure: Lawyer Discipline in Washington
Original: Grievant: Betty McGlaughlin
cc: Lawyer: Martha G. Zwicker
(with enclosure, ELC form, and copy of grievance)



RECEIVED

GRIEVANCE AGAINST A LAWYER MAY 01 2009

WSBA OFFICE OF
DISCIPLINARY COUNSEL



Return your completed form to:

Office of Disciplinary Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

GENERAL INSTRUCTIONS

- Read our information sheet *Lawyer Discipline in Washington* before you complete this form, particularly the section about waiving confidentiality.
- Type or write legibly but do not use the back of any page.
- Do not fax your form to us or send your form to us via the Internet.
- If you have a disability or need assistance with filing a grievance, call us at (206) 727-8207. We will take reasonable steps to accommodate you.

INFORMATION ABOUT YOU

McGlaughlin, Betty
Last Name, First Name
32300 First Ave. S. #204B
Address
Federal Way WA 98003
City, State, and Zip Code
253-836-5211 / SAME
Telephone Number (Day/Evening)
(424) 772-8043 (cell phone)
Alternate address/phone where we can reach you

INFORMATION ABOUT THE LAWYER

Zwicker, Martha Gannett
Last Name, First Name
15 Grady Way South
Address
Renton WA 98056
City, State, and Zip Code
425-226-2884
Telephone Number

INFORMATION ABOUT YOUR GRIEVANCE

Describe your relationship to the lawyer who is the subject of your grievance by checking the box that best describes you:

☒ Client

☐ Former Client

☐ Opposing Party

☐ Opposing Counsel

☐ Judicial

☐ Other: _____

Is there a court case related to your grievance? _____ YES _____ NO

If yes, what is the case name and file number, and who is the lawyer representing you?

I think the answer is no, but I don't know. It was for legal separation
then divorce & there is a decree for the separation dated Nov. 29, 2007. But now
Martha is supposed to be enforcing maintenance & my medical reinstated. Those
were to start 1 1/2 yrs ago.
Updated April 2007

Explain your grievance in **your own words**. Give all important dates, times, places, and court file numbers. Attach additional pages, if necessary. Attach copies (not your originals) of any relevant documents.

In October 2007, Martha Gannett Zwicker took on my Dissolution of Marriage case. All that was left to be done was file the Mediation agreement that Danny McLaughlin's attorney was holding off on completing. There was to be a 5 year separation, then Dissolution. This was not filed and signed by a judge until November 2008. Danny skipped the state, the maintenance, or anything else has been followed thru. To date I have received nothing and Martha never returns my calls. She also does not return calls to the Bar when I've called to have them make a courtesy call. - He is 19 months owing as of May 1, 2009 and I don't know what else to do besides file a formal complaint to get Martha to respond and FINISH this! I'm handicapped, live in a nursing home & have no income, & right now I'm at the end of my rope with her

AFFIRMATION

I affirm that the information I am providing is true and accurate to the best of my knowledge.

Signature: Danny G. McLaughlin Date: 4/28/09

EXHIBIT B



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Felice P. Congalton
Senior Disciplinary Counsel

June 9, 2009

Martha G. Zwicker
15 S Grady Way Ste 250B
Renton, WA 98057-3209

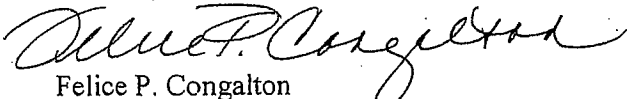
Re: WSBA File: 09-00711
Grievance filed by Betty McGlaughlin

Dear Ms. Zwicker:

We asked you to provide a written response to the above referenced grievance. To the best of our knowledge, your response, which is required by Rule 5.3(e) of the Rules for Enforcement of Lawyer Conduct (ELC), has not been received.

Under ELC 5.3(e), you must file a written response to the allegations of this grievance within ten days after service of this letter, i.e., on or before **June 22, 2009**. If we do not receive your response within the ten-day period, we will subpoena you for a deposition. If we must serve a subpoena, you will be liable for the costs of the deposition, including service of process, and attorney fees of \$500. ELC 5.3(f)(2). You should be aware that failing to respond is, in itself, grounds for discipline and may subject you to interim suspension under ELC 7.2(a)(3).

Sincerely,

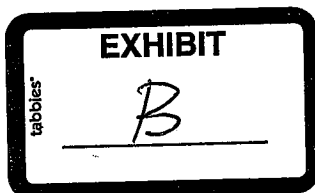

Felice P. Congalton
Senior Disciplinary Counsel

cc: Betty McGlaughlin

CERTIFICATE OF SERVICE

I CERTIFY THAT I CAUSED THE FOREGOING LETTER TO BE MAILED TO THE LAWYER NAMED ABOVE AT 15 S GRADY WAY STE 250B, RENTON, WA 98057-3209, CERTIFIED (RETURN RECEIPT NO. 7009 0080 0000 7175 4976) MAIL, POSTAGE PREPAID, ON JUNE 9, 2009.


FELICE P. CONGALTON
SENIOR DISCIPLINARY COUNSEL



U.S. Postal ServiceTM
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com
OFFICIAL USE

Postage	\$	Postmark Here 6/9
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To Martha Zwickler
 Street, Apt. No.,
 or PO Box No. 15 S Grady Wy Ste 250B
 City, State, ZIP+4[®] Renton WA 98057

PS Form 3800, August 2006 See Reverse for Instructions

7009 0080 0000 7175 4976

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature <input checked="" type="checkbox"/> <u>[Signature]</u> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p><u>Martha Zwickler</u> <u>15 S GRADY WY Ste 250B</u> <u>Renton, WA 98057</u></p>		<p>B. Received by (Printed Name) <u>MARTHA ZWICKLER</u> C. Date of Delivery <u>6/25/09</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>	
<p>2. Article Number (Transfer from service label) <u>7009 0080 0000 7175 4976</u></p>		<p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

EXHIBIT C

1
2
3
4
5
6 BEFORE THE
7 DISCIPLINARY BOARD
8 OF THE
9 WASHINGTON STATE BAR ASSOCIATION

10 In re

11 MARTHA G. ZWICKER
12 Lawyer (Bar No. 18038).

WSBA File No. 09-00711

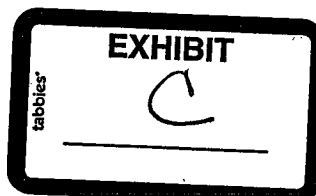
SUBPOENA FOR DEPOSITION AND FOR
THE PRODUCTION OF DOCUMENTS

13 THE STATE OF WASHINGTON TO: MARTHA G. ZWICKER


14 YOU ARE HEREBY COMMANDED under Rules 5.5 and 5.3(f) of the Rules for
15 Enforcement of Lawyer Conduct (ELC) to be and appear at the Washington State Bar
16 Association offices, 1325 4th Avenue, Suite 600, Seattle, WA 98101, on **July 29, 2009 at 1:00**
17 **p.m.**, to testify in investigatory proceedings being conducted by the Washington State Bar
18 Association. The testimony will be recorded by a certified court reporter.

19 YOU ARE FURTHER COMMANDED to bring the following with you at the above
20 time:

21 1. Your complete file and whatever documents may be in your possession or control
22 relating to your representation of Betty McGlaughlin, and all financial records, including trust
23 account and client ledgers, canceled checks, and bank statements relating to funds received in
24 connection with your representation of Betty McGlaughlin.



1
2 Dated this 22nd day of June, 2009.

3
4 
5 Leslie Ching Allen, Bar No. 13069
6 Disciplinary Counsel

7 CR 45 Sections (c) and (d):

8 (c) Protection of Persons Subject to Subpoenas.

- 9 (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue
10 burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon that party or attorney
11 in breach of his duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's
12 fee.
- 13 (2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things,
14 or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for
15 deposition, hearing or trial.
- 16 (B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days
17 after service of subpoena or before the time specified for compliance if such time is less than 14 days; after service, serve upon
18 the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated
19 materials or of the premises. If objection is made, the party serving the premises except pursuant to an order of the court by
20 which the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of
21 the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the
22 person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to
23 compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the
24 inspection and copying commanded.
- 25 (3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it;
26 (i) fails to allow reasonable time for compliance;
27 (ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;
28 (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
29 (iv) subjects a person to undue burden, provided that, the court may condition denial of the motion upon a requirement that the
30 subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.
- 31 (B) If a subpoena
32 (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
33 (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and
34 resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the
35 subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the
36 testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is
37 addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

38 (d) Duties in Responding to Subpoena.

- 39 (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or
40 shall organize and label them to correspond with the categories in the demand.
- 41 (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation
42 materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents,
43 communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

BEFORE THE DISCIPLINARY BOARD OF THE
WASHINGTON STATE BAR ASSOCIATION

In Re:

MARTHA G. ZWICKER,

Lawyer (Bar No. 18038).

WSBA File No. 09-00711

AFFIDAVIT OF SERVICE

State of Washington)

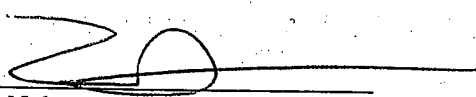
County of King S/S)

The undersigned, being first duly sworn, on oath deposes and says:

That the undersigned is now and at all times mentioned herein was a citizen of the United States and resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above entitled action, and competent to be a witness therein.

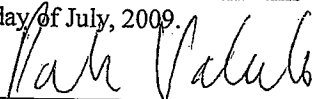
That on **July 1, 2009**, at **4:12 PM**, at the address of **15 South Grady Way, Suite 250B**, Renton, Washington, affiant duly served **Subpoena** and **Letter** in the above entitled action upon **Martha G. Zwicker** by then and there personally delivering true and correct copies thereof into the hands of and leaving same with **Martha G. Zwicker** (35, white, female, 5'7", 140 pounds) named Lawyer.

		Each	Total
Service	1	\$15.00	\$15.00
Mileage/Trips	1	\$40.00	\$40.00
Affidavit	1	\$15.00	\$15.00
Miscellaneous		\$0.00	\$0.00
Miscellaneous		\$0.00	\$0.00
			\$70.00


Z. McNulty King County #9402780

Subscribed and sworn to me this

6th day of July, 2009.



Peter A. Valente- Notary Public in and for the
State of Washington, residing at Seattle.
Commission expires June 7, 2012

AFFIDAVIT OF SERVICE - 1

SEATTLE LEGAL MESSENGER SERVICES, LLC
711 6TH AVENUE NORTH #100
SEATTLE, WA 98109
(206) 443-0885

EXHIBIT D

Leslie Allen

From: Martha [zwicker@msn.com]
Sent: Wednesday, July 29, 2009 4:36 PM
To: Leslie Allen
Subject: Re: Deposition

I will respond to both forthwith. Thank you.

Martha Zwicker

----- Original Message -----

From: Leslie Allen
To: Martha
Sent: Wednesday, July 29, 2009 4:08 PM
Subject: RE: Deposition

Ms. Zwicker,

Your email came too late to continue the deposition (I did not get your email until 12:55 p.m. and the court reporter was already in the conference room ready to record your deposition).

Your comments regarding the USPS are puzzling as our subpoena was personally served on you. It also is puzzling that you would need information from the USPS to answer why you had not returned Ms. McGlaughlin's phone calls or respond to any of her attempts to contact you.

My next step is to ask that the Supreme Court suspend you for not cooperating with the WSBA's investigation into this grievance (despite the fact that you are already suspended for nonpayment of dues). Providing a response to this grievance is the only way to avoid that scenario. Thank you.

Leslie Allen.

Leslie Allen
lesliea@wsba.org

From: Martha [mailto:zwicker@msn.com]
Sent: Wednesday, July 29, 2009 12:26 PM
To: Leslie Allen
Subject: Deposition

Ms. Allen,

I am unable to appear for the deposition scheduled for today at 1 p.m. and apologize for the late notice. I respectfully request a 30 day continuance so that I can present the information you need. For some reason, I did not receive documentation through the USPS in a timely fashion, which has hindered my ability to respond.

Please let me know at your earliest convenience.

Thank you,

Martha Gannett Zwicker



EXHIBIT E

DEPOSITION OF MARTHA G. ZWICKER

Page 1

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In Re:)
)
MARTHA G. ZWICKER,) WSBA File No. 09-00711
)
Lawyer (Bar No. 18038).)
)
)

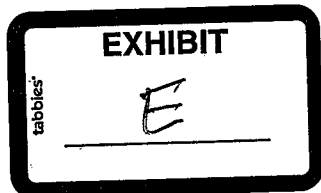
Deposition Upon Oral Examination of
MARTHA G. ZWICKER

Taken at: 1325 Fourth Avenue, Suite 600
Seattle, Washington 98101

Date Taken: July 29, 2009

Reported By: Mark E. King, RPR, CCR #2812

Treece, Shirley & Brodie Court Reporters
1415 North 200th Street, Suite B-7
Shoreline, WA 98133-3219
(206) 624-6604



TREECE, SHIRLEY & BRODIE COURT REPORTERS

DEPOSITION OF MARTHA G. ZWICKER

Page 2

APPEARANCES

FOR THE BAR: LESLIE CHING ALLEN
Disciplinary Counsel
1325 Fourth Avenue, Suite 600
Seattle, WA 98121-2330

FOR RESPONDENT: (No appearance.)

DEPOSITION OF MARTHA G. ZWICKER

Page 3

I N D E X

E X H I B I T S

NO.	DESCRIPTION	PAGE
1	Subpoena Duces Tecum	004
2	Affidavit of Service	004
3	7/29/09 Email from Zwicker to Allen	005
4	Grievance of Betty McGlaughlin	005
5	Acknowledgment of Grievance & Request for Response	005
6	6/9/09 WSBA 10-Day Letter	005

DEPOSITION OF MARTHA G. ZWICKER

Page 4

1 Seattle, Washington, Wednesday, July 29, 2009

2 1:00 p.m.

3 -- o00o --

4 THEREUPON,

5 The following proceedings were had:

6 MS. ALLEN: We are on the record at
7 1:00 p.m. on July 29th, 2009. This is a deposition set in
8 the matter of Martha G. Zwicker, Bar No. 18038, regarding
9 the grievance of the Betty McGlaughlin, File No. 09-00711.

10 I'm submitting as Exhibit 1 a June 30th,
11 2009 letter to Ms. Zwicker attaching a subpoena duces
12 tecum, demanding her appearance at this deposition
13 regarding her representation of Betty McGlaughlin. This
14 is what we call a non-coop deposition because Ms. Zwicker
15 has not responded.

16 Identifying as Exhibit 2 is the Affidavit
17 of Service, stating that on July 1, 2009 Ms. Zwicker was
18 personally served by the process server as described in
19 Exhibit 2.

20 Exhibit 1, my letter of June 30th, advised
21 Ms. Zwicker that we would not cancel or continue the
22 deposition unless it was confirmed in writing, and absent
23 a written confirmation of cancellation her appearance is
24 mandatory.

25 We also usually will give a lawyer a chance

DEPOSITION OF MARTHA G. ZWICKER

Page 5

1 to respond, but Ms. Zwicker did nothing until today at
2 about, according to my email, 12:26 p.m. she sent me an
3 email which I didn't pick up until 12:55 p.m., asking for
4 a 30-day continuance. I'm marking the email as Exhibit 3.

5 As Ms. Zwicker did not give us notice until
6 right before this deposition, we were unable to continue
7 the deposition and this is considered a failure to appear
8 at the deposition.

9 I want to mark as Exhibit 4 the Request for
10 Response, dated May 5th, 2009, of her grievance.
11 Actually, let me change that, that will be Exhibit 5.
12 Exhibit 4 is a copy of the grievance filed by Betty
13 McGlaughlin against Ms. Zwicker, advising the Bar
14 Association of her concerns.

15 Exhibit 6 is what we traditionally call the
16 10-day letter, dated June 9th, 2009, sent to Ms. Zwicker
17 from Senior Disciplinary Counsel Felice Congalton,
18 advising her that if she did not respond to the grievance
19 within 10 days after service of this letter; in other
20 words, on or before June 22, 2009, we would subpoena her
21 for a deposition, which could subject her to interim
22 suspension.

23 This June 9th, 2009 letter was mailed on
24 that date by certified mail, return receipt requested, and
25 the Bar Association received the return receipt

DEPOSITION OF MARTHA G. ZWICKER

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1 indicating, the green card indicating that Ms. Zwicker
2 picked up this letter on June 25, 2009. That letter is
3 being marked as Exhibit 6.

4 For the record, Ms. Zwicker was suspended
5 for nonpayment of dues by the Supreme Court, effective
6 June 1, 2009. This concludes the deposition because
7 Ms. Zwicker has informed us that she's not appearing.
8 Thank you.

9 - - - - -
10 (Whereupon, the proceedings concluded
11 at 1:08 p.m.)
12 - - - - -

DEPOSITION OF MARTHA G. ZWICKER

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C E R T I F I C A T E

STATE OF WASHINGTON)

) SS.

COUNTY OF KING)

I, the undersigned Notary Public in and for the State of Washington, do hereby certify that in the case of MARTHA G. ZWICKER, WSBA File No. 09-00711, the proposed deposition of MARTHA G. ZWICKER was had in the above-numbered cause, beginning at the hour of 1:00 p.m, the 29th day of July, 2009; that I was authorized to and did report stenographically said proceedings, and that the foregoing pages comprise a true and correct transcription of those proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 30th day of July, 2009.

Notary Public in and for the State
of Washington, residing at Bellevue.
My Commission expires March 16, 2013.
CCR License No. 2182